

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

SAM DONAGHE,

Plaintiff,

v.

PAUL TEMPOWSKY *et al.*,

Defendants.

Case No. C04-5541RBL

REPORT AND
RECOMMENDATION

**NOTED FOR:
April 29th, 2005**

This Civil Rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. § 636(b)(1)(B). On January 28th, 2005 the court entered an order adopting a Report and Recommendation. (Dkt. # 57). That order gave the plaintiff until February 28th, to file an amended complaint. As of April 4th, 2005 no amended complaint has been received. The court now recommends the remaining issues in this action be dismissed for lack of prosecution.

Plaintiff has failed to comply with the court's order to file an amended complaint. As there is no complaint before the court this action cannot proceed. **DISMISSAL WITHOUT PREJUDICE** of the remaining issues is warranted. A proposed order accompanies this Report and Recommendation.

1 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal rules of Civil Procedure, the
2 parties shall have ten (10) days from service of this Report to file written objections. *See also* Fed.
3 R. Civ. P. 6. Failure to file objections will result in a waiver of those objections for purposes of
4 appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule
5 72(b), the clerk is directed to set the matter for consideration on **April 29th, 2005**, as noted in the
6 caption and to send the parties a copy of this Report and Recommendation.

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8 DATED this 5th day of April, 2005.

9 /S/ Karen L. Strombom
10 Karen L. Strombom
11 United States Magistrate
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